

REMARKS

This Response is submitted in response to the Office Action dated October 21, 2003. Claims 1 to 9, 11 to 14, 16, 17, 20, 21, 28 to 33, 44 to 46 and 48 stand allowed. Claims 22, 23, 25 to 27, 34, 35 and 40 to 42 were rejected. Claims 10, 15, 18 to 19, 22, 24, 27 to 28, 38, 43 and 47 were objected to. Claims 1, 10, 15, 18, 19, 22, 24, 27, 28, 34, 36, 38, 40, 43, and 47 have been amended herein. Claims 49 and 50 remain withdrawn. Claims 51 to 58 have been added and add no new subject matter.

A Petition for a One-Month Extension of time to respond to the Office Action is submitted herewith. A check in the amount of \$598.00 is submitted herewith to cover the cost of the one-month extension and the new claims. Please debit Deposit Account No. 02-1818 for any insufficiency of payment, or credit any overpayment.

Claims 1, 36 and 40 have been amended for clarity. The amendments are non-narrowing and disclaim no subject matter.

The Office Action objected to Claims 10, 15, 18 to 19, 22, 24, 27 to 28, 38, 43 and 47 due to informalities. Applicants have amended Claims 10, 15, 18 to 19, 22, 24, 27 to 28, 38, 43 and 47 in accordance with the recommendations set forth in the Office Action to put the claims in condition for allowance and not to distinguish over the prior art.

Claim 27 was rejected under 35 U.S.C. §112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim how much the regeneration amount of points be accumulated before the new number of player selections be provided. In response, Applicants have amended Claim 27 to provide a regeneration amount of points, wherein the player obtains a new number of player selections from the choices if the accumulated point total is equal to or greater than the regeneration amount of points within the number of player selections. Accordingly, Applicants respectfully submit that such amendment overcomes this rejection.

The Office Action rejected Claims 22, 23, 25 to 27, 34, 35 and 40 to 42 under 35 U.S.C. §103(a) as being unpatentable over U.S. Patent No. 6,159,098 to Slomiany, et. al ("Slomiany").

Applicants have amended Claim 22 to provide a gaming device having a game comprising a display device, a processor that communicates with the display device, and a plurality of choices displayed by the display device. A number of points is associated with each choice, and the gaming device includes a means which communicates with the processor for selecting a number of those choices. The gaming device also includes a first award that is based on the accumulated point total and a second award that is based on whether the accumulated point total meets or exceeds the goal amount of points, wherein the second award is independent of the goal amount of points.

In *Slomiany*, the processor or player is enabled to select from a plurality of selections until the selection of a selection element associated with an end-bonus penalty occurs. The player is awarded a “selection-based award” and a “quantity-based award”. The selection-based award is defined by the values assigned to the selection elements selected during the bonus game. The quantity-based award is defined by bonus credits based on the number of successful trials or completed selection elements (pigs) that have been “accomplished” in the bonus game. (See Col. 7, lines 58-65 and Col. 8, lines 31-37.) The selection of a selection element which is not associated with an end-bonus penalty defines a successful trial or completed selection element. Therefore, the bonus credits of the quantity-based award are based on the number or, as the name of the award suggests, the *quantity* of elements selected which are not associated with an end-bonus penalty.

The Office Action acknowledges that *Slomiany* does not disclose a goal amount of points but states that *Slomiany* does establish a goal—a completed selection element or successful choice. The Office Action adds that it would be obvious to one of skill in the art to provide “a number of points for each successful choice...in order to facilitate determining a second award based on the predetermined amount of points obtained.” See Office Action, page 4.

Applicants agree that each successful choice or completed selection element has a value or number of points associated with the selected element. These points, however, are accumulated to define a selection-based award. The quantity-based

award disclosed in *Slomiany* is based on the quantity or number of selections that do not contribute to the termination of the game. Further, because the second award in the present invention is based on the accumulated point total and the goal amount of points and not the number of non-terminating selections, the player may pick any number of selections without the accumulated point total meeting or exceeding the goal amount of points. There is, therefore, no suggestion or motivation in *Slomiany* to provide a second award that is based on whether an accumulated point total meets or exceeds a goal amount of points.

Assuming arguendo, however, that it would have been obvious for one skilled in the art to assign a separate number of points for each successful choice in order to facilitate determining a second award based on the predetermined amount of points obtained as the Office Action suggests, *Slomiany* fails to teach the present invention. Applying this assumption to the game illustrated in Fig. 8 of *Slomiany*, if the player wagers one coin and makes five successful choices, an average of two points are assigned per pig ($10 \text{ points} / 5 \text{ pigs} = 2 \text{ points per pig}$). Similarly, if the player plays one coin and makes ten successful choices, an average of fifty points are assigned per pig ($5000 \text{ points} / 10 \text{ pigs} = 50 \text{ points per pig}$). The predetermined amount of points to receive a second award of ten points is ten points, and the predetermined number of points to receive a second award of five thousand points is five thousand points. Therefore, the second award, as disclosed in *Slomiany*, is based on or is dependent upon the predetermined amount or goal amount of points. *Slomiany*, therefore, neither teaches nor suggests a second award that is based on whether the accumulated point total meets or exceeds the goal amount of points, wherein the second award is independent of the goal amount of points as recited in amended Claim 22. Accordingly, Applicants respectfully submit that amended Claim 22 is in condition for allowance and Claims 23, and Claims 25 to 27 which depend from Claim 22 are also in condition for allowance.

Claim 34 has been amended to provide a method of operating a game of a gaming device which includes the steps of accumulating points provided to a player from one or more selections of choices from a displayed group of choices, determining

a percentage of points accumulated of a goal amount of points, assigning at least one point pool associated with the percentage to the displayed group of choices, enabling the player to select a choice from the displayed group of choices, and using the point pool to generate a point value upon the player's selection of at least one of the choices from the displayed group.

Slomiany discloses assigning values to the various selection elements. See Col. 7, lines 66-67 and Col. 8, lines 1-12. The values are selected from a weighted table consisting of several predefined sets of values. See Col. 8, lines 13-18. The table is weighted by increasing the occurrences of certain sets relative to the other sets producing a chance an element from each weighted and non-weighted set will be selected. *Slomiany* goes on to disclose how an average value per selection for the bonus game can be calculated. See Col. 8, lines 18-30. *Slomiany*, however, does not disclose determining a percentage of points accumulated of a goal amount of points and assigning at least one point pool associated with that percentage to the displayed group of choices. Accordingly, Applicants respectfully submit that amended Claim 34 is in condition for allowance and Claim 35, and Claims 40 to 42 which depend from Claim 34 are also in condition for allowance.

Claim 24 has been rewritten in independent form in newly added Claim 51 as recommended based on being objected to as dependent upon a rejected base claim.

Claim 52 has been newly added and depends from Claim 51.

Claim 36 has been rewritten in independent form in newly added Claim 53 as recommended based on being objected to as dependent upon a rejected base claim.

Claims 37 which depends from Claim 36 has been rewritten in independent form and includes the intervening elements of Claim 36 in newly added Claim 54 as recommended based on being objected to as dependent upon a rejected base claim. Minor modifications were made to the limitation of Claim 37 in newly added Claim 54, and newly added Claim 56 which depends from Claim 54 further incorporates that limitation.

Claims 55 has been newly added and depends from Claim 54.

Claims 38 and 39 which depend from Claim 36 have each been rewritten in independent form and include the intervening elements of Claim 36 in newly added Claims 57 and 58, respectively, as recommended based on being objected to as dependent upon a rejected base claim.

An earnest endeavor has been made to place this application in condition for allowance and such allowance is courteously solicited. If the Examiner has any questions related to this Response, please contact the undersigned.

Respectfully submitted,

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